

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SMALL BUSINESS ACT

* * * * *

SEC. 9.(a) * * *

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(e) For the purpose of this section—

(1) * * *

* * * * *

(4) the term “Small Business Innovation Research Program” or “SBIR” means a program under which a portion of a Federal agency’s research or research and development effort is reserved for award to small business concerns through a uniform process having—

(A) * * *

* * * * *

(C) where appropriate, a third phase, *which shall consist of work that derives from, extends, or logically concludes efforts performed under prior SBIR funding agreements (which may be referred to as “Phase III”)—*

(i) in which commercial applications of SBIR-funded research or research and development are funded by non-Federal sources of capital or, for products or services intended for use by the Federal Government, by follow-on non-SBIR Federal funding awards: *Provided*, That for purposes of this clause, such sources of capital and such funding awards include private investment, private research, development, testing, and evaluation (RDT&E) awards, private sales or licenses, government RDT&E contracts and awards, and government sales; or

* * * * *

[The amendments in paragraphs (2) and (3) of section 401 of H.R. 5819 to paragraphs (8) and (9) do not execute due to amendments made by section 201 of such bill.]

(8) the term “research institution” means a nonprofit institution, as defined in section 4(5) of the Stevenson-Wydler Technology Innovation Act of 1980, and includes federally funded research and development centers, as identified by the National Scientific Foundation in accordance with the governmentwide Federal Acquisition Regulation issued in accordance

with section 35(c)(1) of the Office of Federal Procurement Policy Act (or any successor regulation thereto); [and]

(9) the term “commercial applications” shall not be construed to exclude testing and evaluation of products, services, or technologies for use in technical or weapons systems, and further, awards for testing and evaluation of products, services, or technologies for use in technical or weapons systems may be made in either the second or the third phase of the Small Business Innovation Research Program and of the Small Business Technology Transfer Program, as defined in this subsection[.]; and

(10) effective only for the SBIR and STTR programs, and notwithstanding any provision in section 3 to the contrary, the following shall apply:

(A) A business concern that has more than 500 employees shall not qualify as a small business concern.

(B) In determining whether a small business concern is independently owned and operated under section 3(a)(1) or meets the small business size standards instituted under section 3(a)(2), the Administrator shall not consider a business concern to be affiliated with a venture capital operating company (or with any other business that the venture capital operating company has financed) if—

(i) the venture capital operating company does not own 50 percent or more of the business concern; and

(ii) employees of the venture capital operating company do not constitute a majority of the board of directors of the business concern.

(C) A business concern shall be deemed to be “independently owned and operated” if—

(i) it is owned in majority part by one or more natural persons or venture capital operating companies;

(ii) there is no single venture capital operating company that owns 50 percent or more of the business concern; and

(iii) there is no single venture capital operating company the employees of which constitute a majority of the board of directors of the business concern.

(D) To be eligible to receive an award under the SBIR or STTR program, a small business concern may not have an ownership interest by more than one venture capital operating company controlled by a business with more than 500 employees, and that venture capital operating company may not own more than 10 percent of that small business concern.

(E) The term “venture capital operating company” means a business concern—

(i) that—

(I) is a Venture Capital Operating Company, as that term is defined in regulations promulgated by the Secretary of Labor; or

(II) is an entity that—

(aa) *is registered under the Investment Company Act of 1940 (15 U.S.C. 80a-51 et seq.); or*

(bb) *is an investment company, as defined in section 3(c)(14) of such Act (15 U.S.C. 80a-3(c)(14)), which is not registered under such Act because it is beneficially owned by less than 100 persons; and*

(iii) *that is itself organized or incorporated and domiciled in the United States, or is controlled by a business concern that is incorporated and domiciled in the United States.*

(10) *the term “commercialization” means the process of developing marketable products or services and producing and delivering products or services for sale (whether by the originating party or by others) to government or commercial markets.*

(f) FEDERAL AGENCY EXPENDITURES FOR THE SBIR PROGRAM.—

(1) REQUIRED EXPENDITURE AMOUNTS.—Each Federal agency which has an extramural budget for research or research and development in excess of \$100,000,000 for fiscal year 1992, or any fiscal year thereafter, shall expend with small business concerns—

(A) * * *

(B) not less than 2.0 percent of such budget in each of fiscal years 1995 and 1996; [and]

(C) not less than 2.5 percent of such budget [in each fiscal year thereafter,] *in each of fiscal years 1997 through 2008; and*

(D) *not less than 3.0 percent of such budget in each fiscal year thereafter,*

specifically in connection with SBIR programs which meet the requirements of this section, policy directives, and regulations issued under this section.

* * * * *

(g) Each Federal agency required by subsection (f) to establish a small business innovation research program shall, in accordance with this Act and regulations issued hereunder—

(1) * * *

(2) issue small business innovation research solicitations in accordance with a schedule determined cooperatively with the Small Business Administration, *but not less often than twice per year;*

(3) unilaterally determine research topics within the agency’s SBIR solicitations, giving special consideration to broad research topics and to topics that further 1 or more critical technologies *or pressing research priorities*, as identified by—

(A) the National Critical Technologies Panel (or its successor) in the 1991 report required under section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976, and in subsequent reports issued under that authority; [or]

* * * * *

(C) the National Academy of Sciences, in the final report issued by the “America’s Energy Future: Technology Opportunities, Risks, and Tradeoffs” project, and in subsequent reports issued by the National Academy of Sciences on sustainability, energy, and alternative fuels;

(D) the National Institutes of Health, in the annual report on the rare diseases research activities of the National Institutes of Health for fiscal year 2005, and in subsequent reports issued by the National Institutes of Health on rare diseases research activities; or

(E) the national nanotechnology strategic plan required under section 2(c)(4) of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7501(c)(4)) and in subsequent reports issued by the National Science and Technology Council Committee on Technology, focusing on areas of nanotechnology identified in such plan;

(4) unilaterally receive and evaluate proposals resulting from SBIR proposals: *Provided, That if the agency is required by subsection (aa) to have an SBIR advisory board—;*

(A) a final decision on each proposal shall be rendered not later than 90 days after the date on which the solicitation closes;

(B) the SBIR advisory board may, on a case by case basis, extend the 90 days to 180 days; and

(C) the SBIR advisory board shall include in each annual report to Congress under subsection (aa) a statement identifying how many times a decision was not rendered in 90 days, how many times an extension was granted, and how many times a decision was not rendered in 180 days;

* * * * *

(8) make an annual report on the SBIR program to the Small Business Administration and the Office of Science and Technology Policy *and, if the agency is required by subsection (aa) to have an SBIR advisory board, submit a quarterly report on the SBIR program to that SBIR advisory board;*

* * * * *

[(h) In addition to the requirements of subsection (f), each Federal agency which has a budget for research or research and development in excess of \$20,000,000 for any fiscal year beginning with fiscal year 1983 or subsequent fiscal year shall establish goals specifically for funding agreements for research or research and development to small business concerns, and no goal established under this subsection shall be less than the percentage of the agency’s research or research and development budget expended under funding agreements with small business concerns in the immediately preceding fiscal year.]

(h) AGENCY RESEARCH GOALS.—

(1) IN GENERAL.—*In addition to the requirements of subsection (f), each Federal agency that is required by this section to have an SBIR program and that awards annually \$5,000,000,000 or more in procurement contracts shall, effective for fiscal year 2009 and each fiscal year thereafter, establish*

annual goals for commercialization of projects funded by SBIR awards.

(2) *SPECIFIC GOALS.*—*The goals required by paragraph (1) shall include specific goals for each of the following:*

(A) *The percentage of SBIR projects that receive funding for the third phase (as defined in subsection (e)(4)(C)).*

(B) *The percentage of SBIR projects that are successfully integrated into a program of record.*

(C) *The amount of Federal dollars received by SBIR projects through Federal contracts, not including dollars received through the SBIR program.*

(3) *SUBMISSION TO ADVISORY BOARD.*—*For each fiscal year for which goals are required by paragraph (1), the agency shall submit to the agency's SBIR advisory board—*

(A) *not later than 60 days after the beginning of the fiscal year, the goals; and*

(B) *not later than 90 days after the end of the fiscal year, data on the extent to which the goals were met and a description of the methodology used to collect that data.*

* * * *

(j)(1) * * *

(2) *MODIFICATIONS.*—*Not later than 90 days after the date of enactment of the Small Business Research and Development Enhancement Act of 1992, the Administrator shall modify the policy directives issued pursuant to this subsection to provide for—*

(A) * * *

* * * *

(D) *an increase to **[\$100,000]** \$300,000 in the amount of funds which an agency may award in the first phase of an SBIR program, and to **[\$750,000]** \$2,200,000 in the second phase of an SBIR program, **[and an adjustment of such amounts once every 5 years to reflect economic adjustments and programmatic considerations]** and a mandatory annual adjustment of such amounts to reflect economic adjustments and programmatic considerations;*

* * * *

(G) *technical and programmatic guidance to encourage agencies to develop gap-funding programs to address the delay between an award for the first phase of an SBIR program and the application for and extension of an award for the second phase of such program, and to encourage agencies to develop “fast-track” programs to eliminate that delay by issuing second phase SBIR awards as soon as practicable, including in appropriate cases simultaneously with the issuance of the first phase SBIR award;*

(H) *procedures to ensure that a small business concern that submits a proposal for a funding agreement for the first phase of an SBIR program and that has received more than 15 second phase SBIR awards during the preceding 5 fiscal years is able to demonstrate the extent to which it was able to secure third phase funding to develop concepts resulting from previous second phase SBIR awards; **[and]***

(I) procedures to ensure that agencies participating in the SBIR program retain the information submitted under subparagraph (H) at least until the General Accounting Office submits the report required under section 105 of the Small Business Research and Development Enhancement Act of 1992[.]; and

(J) procedures to ensure that the Administrator, on an annual basis, submits to the Committee on Small Business and the Committee on Science and Technology of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate a list identifying each small business concern that, for the period covered by the preceding 5 fiscal years, received 15 or more first phase SBIR awards and no second phase SBIR awards.

* * * * *

(4) REQUIREMENTS RELATING TO FEDERAL AGENCY ENGAGEMENT WITH CERTAIN FIRST PHASE SBIR Awardees.—*The Administrator shall modify the policy directives issued pursuant to this subsection to provide for each Federal agency required by this section to conduct an SBIR program to engage with SBIR awardees that have been awarded multiple first phase SBIR awards but have not been awarded any second phase SBIR awards and to develop performance metrics to measure awardee progression in the SBIR program.*

(5) REQUIREMENTS RELATING TO ADDITIONAL SECOND PHASE SBIR AWARDS.—*The Administrator shall modify the policy directives issued pursuant to this subsection to provide the following:*

(A) *A small business concern that receives a second phase SBIR award for a project remains eligible to receive additional second phase SBIR awards.*

(B) *Agencies are expressly authorized to provide additional second phase SBIR awards for testing and evaluation assistance for the insertion of SBIR technologies into technical or weapons systems.*

(C) *Each agency that is required by subsection (aa) to have an SBIR advisory board shall include in the quarterly reports submitted under subsection (g)(8) the number of projects that have received additional second phase SBIR awards and the total dollar amount of those additional second phase SBIR awards.*

(6) INCREASED PARTNERSHIPS.—*Each agency required by this section to conduct an SBIR program shall establish initiatives by which the agency encourages partnerships between SBIR awardees and prime contractors, venture capital investment companies, and larger businesses, for the purpose of facilitating the progress of the SBIR awardees to the third phase. If the agency is required by subsection (aa) to have an SBIR advisory board, the advisory board shall include in each report submitted under subsection (aa) a description of the initiatives established and an assessment of the effectiveness of such initiatives.*

(7) COMMERCIALIZATION PROGRAMS.—*Each agency required by this section to conduct an SBIR program shall establish a commercialization program that supports the progress of SBIR awardees to the third phase. The commercialization program may include activities such as partnership databases, partnership conferences, mul-*

multiple second phases, mentoring between prime contractors and SBIR awardees, multiple second phases with matching private investment requirements, jumbo awards, SBIR helpdesks, and transition assistance programs. The agency shall include in its annual report an analysis of the various activities considered for inclusion in the commercialization program and a statement of the reasons why each activity considered was included or not included, as the case may be. If the agency is required by subsection (aa) to have an SBIR advisory board, the advisory board shall include in each report under subsection (aa) a statement identifying the number of SBIR awardees that successfully progressed to the third phase.

(8) FUNDING FOR COMMERCIALIZATION PROGRAMS.—

(A) IN GENERAL.—From amounts made available to carry out this paragraph, the Administrator may, on petition by agencies required by this section to conduct an SBIR program, transfer funds to such agencies to support the commercialization programs of such agencies.

(B) PETITIONS.—The Administrator shall establish rules for making transfers under subparagraph (A). The initial set of rules shall be promulgated not later than 90 days after the date of the enactment of this paragraph.

(C) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this paragraph \$27,500,000 for fiscal year 2009 and each fiscal year thereafter.

(9) FUNDING LIMITATION.—*For payment of expenses incurred to administer the commercialization programs described in paragraphs (7) and (8), the head of the agency may use not more than an amount equal to 1 percent of the funds available to the agency pursuant to the Small Business Innovation Research program. Such funds—*

(A) shall not be subject to the limitations on the use of funds in subsection (f)(2); and

(B) shall not be used for the purpose of funding costs associated with salaries and expenses of employees of the United States Government.

(10) EFFORTS TO ENHANCE MANUFACTURING ACTIVITIES.—*If an agency is required by subsection (aa) to have an SBIR advisory board, the advisory board shall include in each report under subsection (aa) a part relating to efforts to enhance manufacturing activities, which shall include—*

(A) a comprehensive description of the actions undertaken each year by the SBIR and STTR programs of that agency in support of Executive Order 13329;

(B) an assessment of the effectiveness of such actions toward enhancing the research and development of manufacturing technologies and processes; and

(C) any recommendations that the program managers of the SBIR and STTR programs consider appropriate for additional actions to be undertaken in order to increase the effectiveness toward enhancing manufacturing activities within the defense industrial base.

(k) DATABASE.—

(1) * * *

(2) GOVERNMENT DATABASE.—Not later than 180 days after the date of the enactment of the Small Business Innovation Research Program Reauthorization Act of 2000, the Administrator, in consultation with Federal agencies required to have an SBIR program pursuant to subsection (f)(1) or an STTR program pursuant to subsection (n)(1), shall develop and maintain a database to be used exclusively for SBIR and STTR program evaluation that—

(A) contains for each second phase award made by a Federal agency—

(i) * * *

(ii) information collected in accordance with paragraph (3) on additional investment from any source, other than first phase or second phase SBIR or STTR awards, to further the research and development conducted under the award; **[and]**

(iii) any other information received in connection with the award that the Administrator, in conjunction with the SBIR and STTR program managers of Federal agencies, considers relevant and appropriate; and

(iv) *information on the ownership structure of award recipients, both at the time of receipt of the award and upon completion of the award period;*

* * * * *

[(3) UPDATING INFORMATION FOR DATABASE.—

[(A) IN GENERAL.—A small business concern applying for a second phase award under this section shall be required to update information in the database established under this subsection for any prior second phase award received by that small business concern. In complying with this paragraph, a small business concern may apportion sales or additional investment information relating to more than one second phase award among those awards, if it notes the apportionment for each award.

[(B) ANNUAL UPDATES UPON TERMINATION.—A small business concern receiving a second phase award under this section shall—

[(i) update information in the database concerning that award at the termination of the award period; and

[(ii) be requested to voluntarily update such information annually thereafter for a period of 5 years.]

(3) UPDATING INFORMATION FOR DATABASE.—

(A) IN GENERAL.—A Federal agency shall not make a Phase I or Phase II payment to a small business concern under this section unless the small business concern has provided all information required under this subsection with respect to the award under which the payment is made, and with respect to any other award under this section previously received by the small business concern or a predecessor in interest to the small business concern.

(B) APPORTIONMENT.—In complying with this paragraph, a small business concern may apportion sales or additional investment information relating to more than one

second phase award among those awards, if it notes the apportionment for each award.

(C) *ANNUAL UPDATES UPON TERMINATION.—A small business concern receiving an award under this section shall—*

(i) in the case of a second phase award, update information in the databases required under paragraphs (2) and (6) concerning that award at the termination of the award period;

(ii) in the case of award recipients not described in clause (iii), be requested to voluntarily update such information annually thereafter for a period of 5 years; and

(iii) in the case of a small business concern applying for a subsequent first phase or second phase award, be required to update such information annually thereafter for a period of 5 years.

* * * * *

(6) *AGENCY PROGRAM EVALUATION DATABASES.—Each Federal agency required to establish an SBIR or STTR program under this section shall develop and maintain, for the purpose of evaluating such programs, a database containing information required to be contained in the database under paragraph (2). Each such database shall be designed to be accessible to other agencies that are required to maintain a database under this paragraph.*

(7) *AGENCY DATABASES TO SUPPORT TECHNOLOGY UTILIZATION.—Each Federal agency with an SBIR or STTR program shall create and maintain a technology utilization database, which shall be available to the public and shall contain data supplied by the award recipients specifically to help them attract customers for the products and services generated under the SBIR or STTR project, and to attract additional investors and business partners. Each database created under this paragraph shall include information on the other databases created under this paragraph by other Federal agencies. Participation in a database under this paragraph shall be voluntary, except that such participation is required of all award recipients who received supplemental payments from SBIR and STTR program funds above their initial Phase II award.*

* * * * *

(m) *TERMINATION.—The authorization to carry out the Small Business Innovation Research Program established under this section shall terminate on September 30, [2008] 2010.*

(n) *REQUIRED EXPENDITURES FOR STTR BY FEDERAL AGENCIES.—*

(1) REQUIRED EXPENDITURE AMOUNTS.—

(A) IN GENERAL.—With respect to each fiscal year through fiscal year [2009] 2010, each Federal agency that has an extramural budget for research, or research and development, in excess of \$1,000,000,000 for that fiscal year, shall expend with small business concerns not less than the percentage of that extramural budget specified in sub-

paragraph (B), specifically in connection with STTR programs that meet the requirements of this section and any policy directives and regulations issued under this section.

(B) EXPENDITURE AMOUNTS.—The percentage of the extramural budget required to be expended by an agency in accordance with subparagraph (A) shall be—

(i) 0.15 percent for each fiscal year through fiscal year 2003; **[and]**

(ii) 0.3 percent for **[fiscal year 2004 and each fiscal year thereafter.]** *each of fiscal years 2004 through 2008; and*

(iii) 0.6 percent for fiscal year 2009 and each fiscal year thereafter.

* * * * *

(o) FEDERAL AGENCY STTR AUTHORITY.—Each Federal agency required to establish an STTR program in accordance with subsection (n) and regulations issued under this Act, shall—

(1) unilaterally determine categories of projects to be included in its STTR program, *giving special consideration to topics that further 1 or more critical technologies, as identified by the national nanotechnology strategic plan required under section 2(c)(4) of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7501(c)(4)) and in subsequent reports issued by the National Science and Technology Council Committee on Technology, focusing on areas of nanotechnology identified in such plan;*

* * * * *

(p) STTR POLICY DIRECTIVE.—

(1) * * *

(2) CONTENTS.—The policy directive required by paragraph

(1) shall provide for—

(A) * * *

(B) a simplified, standardized funding process that provides for—

(i) * * *

* * * * *

(ix) 1-year awards for the first phase of an STTR program, generally not to exceed **[\$100,000]** *\$300,000*, and 2-year awards for the second phase of an STTR program, generally not to exceed, **[\$750,000 greater or lesser amounts]** *\$2,200,000 with a mandatory annual adjustment of such amounts to reflect economic adjustments and programmatic considerations, and with lesser amounts to be awarded at the discretion of the awarding agency, and shorter or longer periods of time to be approved at the discretion of the awarding agency where appropriate for a particular project;*

* * * * *

(q) DISCRETIONARY TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—Each Federal agency required by this section to conduct an SBIR program may enter into an agreement with a vendor selected under **[paragraph (2)]** *paragraph*

(2)(A), or another Federal agency under paragraph (2)(B), to provide small business concerns engaged in SBIR projects with technical assistance services, such as access to a network of scientists and engineers engaged in a wide range of technologies, or access to technical and business literature available through on-line data bases, for the purpose of assisting such concerns in—

(A) * * *

* * * * *

(C) minimizing technical risks associated with such projects; [and]

(D) developing and commercializing new commercial products and processes resulting from such projects[.]; and

(E) implementing manufacturing processes and production strategies for utilization.

[(2) VENDOR SELECTION.—Each agency may select a vendor to assist small business concerns to meet the goals listed in paragraph (1) for a term not to exceed 3 years. Such selection shall be competitive and shall utilize merit-based criteria.]

(2) ASSISTANCE PROVIDERS.—

(A) VENDOR SELECTION.—Each agency may select a vendor to assist small business concerns to meet the goals listed in paragraph (1) for a term not to exceed 3 years. Such selection shall be competitive and shall utilize merit-based criteria.

(B) INTERAGENCY COLLABORATION.—In addition, each agency may enter into a collaborative agreement with the technical extension or assistance programs of other Federal agencies in order to provide the assistance described in paragraph (1).

(3) ADDITIONAL TECHNICAL ASSISTANCE.—

(A) FIRST PHASE.—Each agency referred to in paragraph (1) may provide services described in paragraph (1) to first phase SBIR award recipients in an amount equal to not more than [\$4,000] \$5,000, which shall be in addition to the amount of the recipient's award.

[(B) SECOND PHASE.—Each agency referred to in paragraph (1) may authorize any second phase SBIR award recipient to purchase, with funds available from their SBIR awards, services described in paragraph (1), in an amount equal to not more than \$4,000 per year.]

(B) SECOND PHASE.—Each agency referred to in paragraph (1) may provide directly, or authorize any second phase SBIR award recipient to purchase with funds available from their SBIR awards, services described in paragraph (1), in an amount equal to not more than \$8,000 per year, per award.

(C) AUTHORITY TO OPT OUT.—The Administrator shall establish guidelines under which an award recipient eligible to receive services under subparagraph (A) may decline those services and receive instead an amount equal to not more than \$2,500, which shall be in addition to the amount

of the recipient's award and which shall be used to purchase services described in paragraph (1).

* * * * *

(s) OUTREACH AND SUPPORT ACTIVITIES.—

(1) IN GENERAL.—Subject to the other provisions of this subsection, the Administrator shall make grants on a competitive basis to organizations, to be used by the organizations to do one or both of the following:

(A) To conduct outreach efforts to increase participation in the programs under this section.

(B) To provide application support and entrepreneurial and business skills support to prospective participants in the programs under this section.

(2) PROGRAM AUTHORITY.—Of the amounts made available to carry out this section for each of fiscal years 2009 through 2010, the Administrator may expend not more than \$10,000,000 in each such fiscal year to carry out paragraph (1).

(3) AMOUNT OF ASSISTANCE.—For each of subparagraphs (A) and (B) of paragraph (1), the amount of assistance provided to an organization under that subparagraph in any fiscal year—

(A) shall be equal to the total amount of matching funds from non-Federal sources provided by the organization; and

(B) shall not exceed \$250,000.

(4) DIRECTION.—An organization receiving funds under paragraph (1) shall, in using those funds, direct its activities at one or both of the following:

(A) Small business concerns located in geographic areas that are underrepresented in the programs under this section.

(B) Small business concerns owned and controlled by women, small business concerns owned and controlled by service-disabled veterans, and small business concerns owned and controlled by minorities.

(5) ADVISORY BOARD.—

(A) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this subsection, the Administrator shall establish an advisory board for the activities carried out under this subsection.

(B) NON-APPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory board.

(C) MEMBERS.—The members of the advisory board shall include the following:

(i) The Administrator (or the Administrator's designee).

(ii) For each Federal agency required by this section to conduct an SBIR program, the head of the agency (or the designee of the head of the agency).

(iii) Representatives of small business concerns that are current or former recipients of SBIR awards, or representatives of organizations of such concerns.

(iv) *Representatives of service providers of SBIR outreach and assistance, or representatives of organizations of such service providers.*

(D) *DUTIES.—The advisory board shall have the following duties:*

(i) *To develop guidelines for awards under paragraph (1)(A), including guidelines relating to award sizes, proposal requirements, metrics for monitoring awardee performance, and metrics for measuring overall value of the activities carried out by the awardees.*

(ii) *To identify opportunities for coordinated outreach, technical assistance, and commercialization activities among Federal agencies, the recipients of the awards under paragraph (1)(A), and applicants and recipients of SBIR awards, including opportunities such as—*

(I) podcasting or webcasting for conferences, training workshops, and other events;

(II) shared online resources to match prospective applicants with the network of paragraph (1)(A) recipients; and

(III) venture capital conferences tied to technologies and sectors that cross agencies.

(iii) *To review and recommend revisions to activities under paragraph (1)(A).*

(iv) *To submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business and the Committee on Science and Technology of the House of Representatives an annual report on the activities carried out under paragraph (1)(A) and the effectiveness and impact of those activities.*

(6) *SELECTION CRITERIA.—In awarding grants under this subsection, the Administrator shall use selection criteria developed by the advisory board established under paragraph (5). The criteria shall include—*

(A) criteria designed to give preference to applicants who propose to carry out activities that will reach either an underperforming geographic area or an underrepresented population group (as measured by the number of SBIR applicants);

(B) criteria designed to give preference to applicants who propose to carry out activities that complement, and are integrated into, the existing public-private innovation support system for the targeted region or population; and

(C) criteria designed to give preference to applicants who propose to measure the effectiveness of the proposed activities.

(7) *PEER REVIEW.—In awarding grants under this subsection, the Administrator shall use a peer review process. Reviewers shall include—*

(A) SBIR program managers for agencies required by this section to conduct SBIR programs; and

(B) *private individuals and organizations that are knowledgeable about SBIR, the innovation process, technology commercialization, and State and regional technology-based economic development programs.*

(8) *PER-STATE LIMITATIONS.—*

(A) *IN GENERAL.—To be eligible to receive a grant under this subsection, the applicant must have the written endorsement of the Governor of the State where the targeted regions or populations are located (if the regions or populations are located in more than one State, the applicant must have the written endorsement of the Governor of each such State). Such an endorsement must indicate that the Governor will ensure that the activities to be carried out under the grant will be integrated with the balance of the State's portfolio of investments to help small business concerns commercialize technology.*

(B) *LIMITATION.—Each fiscal year, a Governor may have in effect not more than one written endorsement for a grant under paragraph (1)(A), and not more than one written endorsement for a grant under paragraph (1)(B).*

(9) *SPECIFIC REQUIREMENTS FOR FAST AWARDS.—In making awards under paragraph (1)(A) (to be known as “FAST” awards) the Administrator shall ensure the following:*

(A) *GOALS.—Priority shall be given applications that address one or more of the following goals:*

(i) *Increasing the number of SBIR applications from underperforming geographic areas (as measured by the number of SBIR applicants).*

(ii) *Increasing the number of SBIR applications from underrepresented population groups (as measured by the number of SBIR applicants).*

(B) *DURATION.—Each award shall be for a period of 2 fiscal years. The Administrator shall establish rules and performance goals for the disbursement of funds for the second fiscal year, and funds shall not be disbursed to a recipient for such a fiscal year until after the advisory board established under this subsection has determined that the recipient is in compliance with the rules and performance goals.*

(5) *CONSENT TO RELEASE CONTACT INFORMATION TO ORGANIZATIONS.—*

(A) *ENABLING CONCERN TO GIVE CONSENT.—Each Federal agency required by this section to conduct an SBIR program shall enable a small business concern that is an SBIR applicant to indicate to the agency whether the agency has its consent to—*

(i) *identify the concern to appropriate local and State-level economic development organizations as an SBIR applicant; and*

(ii) *release the concern's contact information to such organizations.*

(B) *RULES.—The Administrator shall establish rules to implement this paragraph. The rules shall include a requirement that the agency include in its SBIR application*

forms a provision through which the applicant can indicate consent for purposes of subparagraph (A).

* * * * *

[A subsection (z) exists in section 9 of the Small Business Act. The subsection (z) (and subsequent subsections (aa) through (dd)) as added by H.R. 5819 probably should be redesignated as subsections (aa) through (ee).]

(z) LIMITATION ON PHASE I AND II AWARDS.—

(1) IN GENERAL.—No Federal agency shall issue an award under the SBIR program or the STTR program if the size of the award exceeds the amounts established under subsections (j)(2)(D) and (p)(2)(B)(ix), except as provided in paragraph (2).

(2) EXCEPTION.—The prohibition in paragraph (1) does not apply to an agency for a fiscal year if the head of the agency—

(A) notifies the Administrator that the agency intends to issue awards in that fiscal year without regard to the prohibition in paragraph (1); and

(B) reports to the Committee on Small Business and the Committee on Science and Technology of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate at least annually the number of instances in which the agency issued an award that exceeds the amounts referred to in paragraph (1) and the justification for each such instance.

(aa) SBIR ADVISORY BOARDS.—

(1) ADVISORY BOARDS REQUIRED.—Each Federal agency that is required by this section to conduct an SBIR program and that administers annually \$50,000,000 or more in SBIR grants shall have an SBIR advisory board.

(2) MEMBERS.—For each advisory board required by paragraph (1), the members of the advisory board shall include—

(A) at least two individuals who are employees of the agency;

(B) at least two representatives of private sector technology firms; and

(C) such other individuals as the agency considers appropriate.

(3) SECURITY CLEARANCES.—Where it is appropriate to the work of an advisory board required by paragraph (1) that the members and staff of the advisory board have a security clearance, the appropriate departments and agencies of the executive branch shall cooperate with the advisory board to expeditiously provide members and staff with appropriate security clearances to the extent possible under applicable procedures and requirements.

(4) MEETINGS.—Each advisory board required by paragraph (1) shall meet at least two times per year.

(5) DUTIES.—Each advisory board required by paragraph (1) shall—

(A) review the quarterly reports submitted under subsection (g)(8);

(B) make recommendations to the agency about potential modifications to the agency's SBIR program that are intended to—

(i) encourage applications, particularly applications from small business concerns owned and controlled by women, small business concerns owned and controlled by minorities, and small business concerns in States and regions that historically receive few SBIR awards; and

(ii) support commercialization of Federal research funded by SBIR awards; and

(C) submit to the Committee on Small Business and the Committee on Science and Technology of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate an annual report on the SBIR program conducted by the agency.

(6) CONTENTS OF ANNUAL REPORT.—The annual report required by paragraph (5)(C) shall include a description of how that agency's SBIR program is functioning and any recommendations of the advisory board for strengthening that agency's SBIR program. The annual report shall also state the number and dollar amount of awards under the agency's SBIR program, and under the agency's STTR program, that were made to small business concerns owned and controlled by women, small business concerns owned and controlled by minorities, small business concerns owned and controlled by veterans, and small business concerns in States and regions that historically receive few SBIR awards.

(7) NON-APPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to an advisory board required by paragraph (1).

(bb) SUBSEQUENT PHASES.—

(1) IN GENERAL.—A small business concern which received an award from a Federal agency under this section shall be eligible to receive an award for a subsequent phase from another Federal agency, if the head of each relevant Federal agency makes a written determination that the topics of the relevant awards are the same.

(2) CROSSOVER BETWEEN PROGRAMS.—A small business concern which received an award under this section under the SBIR program or the STTR program may, at the discretion of the granting agency, receive an award under this section for a subsequent phase in either the SBIR program or the STTR program.

(3) PHASE II SBIR APPLICATIONS.—An agency may permit an applicant to apply directly for a Phase II award, as described in subsection (e)(4)(B), without first completing a Phase I award, as described in subsection (e)(4)(A), if the applicant can demonstrate that project feasibility was achieved without SBIR or other Federal funding.

(4) PHASE II STTR APPLICATIONS.—An agency may permit an applicant to submit proposals for Phase II awards, as described in subsection (e)(6)(B), without first completing a Phase I award, as described in subsection (e)(6)(A), if the applicant can demonstrate it has accomplished Phase I through cooperative research and development achieved without STTR or other Federal funding.

(cc) *WAIVER OF MINIMUM WORK REQUIREMENT.*—A Federal agency making an SBIR or STTR award under this section may waive the minimum small business concern or research institution work requirements under subsection (e)(7) if the agency determines that to provide such waiver would be consistent with the purposes of this section and consistent with achieving the objectives of the award proposal.

(dd) *RURAL PREFERENCE.*—In making awards under this section, Federal agencies shall give priority to applications so as to increase the number of SBIR and STTR award recipients from rural areas.

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SMALL BUSINESS REAUTHORIZATION ACT OF 2000

SEC. 108. NATIONAL RESEARCH COUNCIL REPORTS.

(a) * * *

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(d) *REPORT.*—The National Research Council shall transmit to the heads of agencies entering into an agreement under this section and to the Committee on Science and the Committee on Small Business of the House of Representatives, and to the Committee on Small Business [of the Senate—

[(1) not later than 3] *of the Senate, not later than 3 years* after the date of the enactment of this Act, a report including the results of the study conducted under subsection (a)(1) and recommendations made under subsection (a)(2)[; and

[(2) not later than 6 years after that date of the enactment, an update of such report].

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